

*Public Service Commission
Of West Virginia*

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Charleston, West Virginia 25323



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September 19, 2011

Received & Inspected

SEP 23 2011

FCC Mail Room

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, Maryland 20743
(overnight mail)

(Duplicate copy to:)
Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Karen Majcher
Universal Service Administrative Company
2000 L Street, NW
Suite 200
Washington, DC 20036

Re: Certification of High Cost Support Pursuant to 47 C.F.R. §§54.313,
54.314 and 54.316, CC Docket No. 96-45

Dear Ms. Dortch and Ms. Majcher:

The Public Service Commission of West Virginia (WVPSC) submits its annual certification in accordance with 47 C.F.R. §§54.313, 54.314 and 54.316. These Federal Communications Commission (FCC) rules require state certifications to allow non-rural and rural incumbent local exchange carriers (ILECs), or eligible telecommunications carriers (ETCs), to receive federal universal service support pursuant to 47 C.F.R. §§54.301 - 54.314.

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List ABCDE

I. Use of High Cost Support Certification – All Carriers.

As required by 47 C.F.R. §§54.313(a) and 54.314(a), the WVPSC certifies that the following carriers in West Virginia are eligible to receive federal support from January 1, 2012, to December 31, 2012:

1. Alltel Communications, LLC, dba Verizon Wireless
2. Armstrong Telephone Company - Northern Division
3. Armstrong Telephone Company - West Virginia
4. Citizens Telecommunications of West Virginia, Inc.
5. Conexion, LLC, dba Conexion Wireless
6. FiberNet, LLC
7. Frontier West Virginia Inc.
8. Gateway Telecom, LLC, dba StratusWave Communications, LLC
9. Gulf Coast Home Phone Services dba Gulf Coast Wireless
10. Hardy Telecommunications, Inc. CLEC
11. Hardy Telecommunications, Inc. ILEC
12. i-wireless, LLC
13. Linkup Telecom
14. Midwestern Telecommunications, Inc., dba MTI
15. New Cingular Wireless PCS, LLC, dba AT&T Mobility
16. Nexus Communications, Inc.
17. Sprint Nextel Corporation
18. Spruce Knob-Seneca Rocks Telephone, Inc.
19. Telrite Corporation
20. TerraCom, Inc.
21. Tracfone Wireless, Inc.
22. USCOC of Cumberland and Hardy Cellular Telephone, Inc.
23. Virgin Mobile USA, L.P.
24. War Acquisition Corp., dba OTT Communications
25. West Side Telecommunications
26. West Virginia PCS Alliance, LC dba NTELOS

Attachment A to this letter lists these carriers, the Study Area Code (SAC) of each carrier, if available, whether the carrier is rural or non-rural, and whether the carrier is an

incumbent or competitive carrier. The WVPSC further certifies that these carriers will use federal universal service support only for the provision, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Communications Act of 1934, as amended. This certification is the product of formal proceedings before the WVPSC. General Investigation Regarding Certification of Federal Universal Service Funding for Eligible Telecommunications Carriers in West Virginia, Case No. 11-0818-T-GI (Commission Order, September 19, 2011) (attached as Attachment B). With respect to Frontier West Virginia Inc. (Frontier WV), all federal universal service support received by Frontier WV is used to reduce monthly rates for single-line business and residential customers in West Virginia, and for network upgrades in high-cost areas, pursuant to an Order of the WVPSC. Verizon West Virginia Inc., Case No. 05-1778-T-PC (Commission Order, April 3, 2006).

II. Rate Comparability Certification – Non-Rural ILEC Service Areas.

A. Non-Rural ILEC Rate Comparability Certification.

Frontier WV is West Virginia's only non-rural ILEC. As required by 47 C.F.R. §54.316(a), the WVPSC certifies that the rates charged by Frontier WV in rural areas of its ILEC service area are reasonably comparable to rates charged in urban areas nationwide. This certification is the result of formal proceedings before the WVPSC. Case No. 11-0818-T-GI (Commission Order, September 19, 2011). In that case, the WVPSC found that the rates charged by Frontier WV to residential customers in rural areas of its ILEC service area are comparable to rates charged in urban areas nationwide for purposes of 47 U.S.C. §254(e). As set forth in the Order, three of the four residential calling plans available to all Frontier WV customers in West Virginia, including those in rural areas, have basic rates that fall below the national urban benchmark of \$36.52 per month set forth in the FCC's Reference Book on Rates, Price Indices and Expenditures for Telephone Service, (2008 Edition). The fourth calling plan, Frequent Caller, has basic rates that are slightly above the benchmark. The Commission finds the small amount that the Frequent Caller Plan exceeds the urban benchmark to be de minimis. The Commission finding is also supported by the following facts:

- a. Since 1988 the rates charged to residential customers in West Virginia have been uniform throughout the state.

b. "Local calling areas" are uniformly defined throughout West Virginia, and consist of all adjacent wire centers and wire centers within twenty-two air miles of the customer's home wire center. This means that every residential customer in every Frontier WV wire center in West Virginia, rural or urban, has a large local calling area, usually in excess of fifty miles in diameter. These large local calling areas benefit residential customers by reducing the need to make long distance calls for normal daily activities.

c. Every residential customer in every Frontier WV wire center has the choice of the same four calling plans. Because the rate plans are optional, no customer is forced to purchase service under any particular plan.

d. The Frequent Caller Plan is an optional calling plan that provides flat-rate local calling across a very large area. Customers do not have to choose that plan, because there are other alternative calling plans available from Frontier WV and competitive carriers. Moreover, that plan gives customers flat-rate local calling for calls that are normally billed as long distance calls in other, more urban states.

Case No. 11-0818-T-GI, (Commission Order, September 19, 2011).

B. Additional Rate Comparability Certification – Competitive ETCs.

The WVPSC has also reviewed the residential rates charged by competitive ETCs in rural areas of West Virginia served by Frontier WV and determined that the competitive ETC rates are reasonably comparable to urban rates nationwide. As noted in the attached Order, most of these carriers offer at least one residential plan to customers in rural wire centers served by Frontier WV that falls below the national urban benchmark of \$36.52 per month set forth in the FCC Reference Book on Rates, Price Indices and Expenditures for Telephone Service, (2008 Edition). To the extent that some of the competitive ETCs offer basic calling plans with rates that are above the national urban benchmark, the WVPSC believes that those plans are nevertheless comparable to urban rates nationwide because the plans include calling features that are not federally supported, such as long distance calling and vertical services.

Ms. Dortch
Ms. Majcher
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III. Conclusion.

On behalf of the people of West Virginia, the WVPSC expresses its appreciation for the efforts of the FCC in arriving at a mechanism to provide support that will reduce monthly rates for the bulk of customers and make those rates more comparable to rates paid by consumers in other parts of the nation.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Michael A. Albert". The signature is fluid and cursive, with the first name "Michael" being the most prominent.

Michael A. Albert
Chairman

MJM/ldd
Enclosures

ATTACHMENT A

Rural and Non-Rural Carriers Certified to Receive High Cost Support

Carrier	SAC¹	Rural/ Non-Rural²	Type³
Alltel Communications, LLC, dba Verizon Wireless	209008	N	C
Armstrong Telephone Company - Northern Division	200267	R	I
Armstrong Telephone Company - West Virginia	200256	R	I
Citizens Telecommunications of West Virginia, Inc.	200271	R	I
Citizens Telecommunications of West Virginia, Inc.	204338	R	I
Citizens Telecommunications of West Virginia, Inc.	204339	R	I
Conexion, LLC, dba Conexion Wireless	n/a ⁴	N	C
FiberNet, LLC	209002	N/R	C
Frontier West Virginia Inc. (fka Verizon WV)	205050	N	I
Gateway Telecom, LLC, dba StratusWave Communications, LLC	209001	N	C
Gulf Coast Home Phone Services dba Gulf Coast Wireless	n/a	N	C
Hardy Telecommunications, Inc. (CLEC)	209009	R	C
Hardy Telecommunications, Inc. (ILEC)	200259	R	I
i-wireless, LLC	n/a	N/R	C
Linkup Telecom	n/a	N	C
Midwestern Telecommunications, Inc., dba MTI	n/a	N	C

¹Study Area Code²R - Rural Carrier; N - Non-Rural Carrier³I - Incumbent; C - Competitive⁴n/a - not available

New Cingular Wireless PCS, LLC dba AT&T Mob.	209012	N/R	C
Nexus Communications, Inc.	209014	N	C
Sprint Nextel Corporation	209007	N	C
Spruce Knob-Seneca Rocks Telephone, Inc.	200257	R	I
Telrite Corporation	209016	N	C
TerraCom, Inc.	209017	N	C
Tracfone Wireless, Inc.	209013	N	C
USCOC of Cumberland & Hardy Cellular Telephone, Inc.	209005	N/R	C
Virgin Mobile USA, L.P.	209015	N	C
War Acquisition Corp., dba OTT Communications	200258	R	I
West Side Telecommunications	200277	R	I
West Virginia PCS Alliance, LC dba NTELOS	209909	N	C

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 19th day of September 2011.

CASE NO. 11-0818-T-GI

GENERAL INVESTIGATION REGARDING CERTIFICATION OF
FEDERAL UNIVERSAL SERVICE FUNDING FOR ELIGIBLE
TELECOMMUNICATIONS CARRIERS IN WEST VIRGINIA.

COMMISSION ORDER

The Commission finds that certain eligible telecommunications carriers (ETCs) in West Virginia are appropriately using federal universal service funds (USF) and that rates in rural areas served by non-rural incumbent carriers are comparable to rates charged in urban areas nationwide.

BACKGROUND

The Federal Communications Commission (FCC) requires states to annually certify which carriers are eligible for USF and file a certificate stating that all federal high-cost funds flowing to rural and non-rural carriers in that state will be used in accord with Section 254(e) of the Telecommunications Act of 1934 (as amended)¹ (Act). 47 U.S.C. §254(e), 47 C.F.R. §§54.313 and 54.314. If a state commission files a certification with the FCC prior to October 1, then USF for the next calendar year will be forwarded to rural and non-rural carriers. *Id.* Therefore, the Commission initiated this general investigation (GI) regarding the certification of federal USF for ETCs in West Virginia for calendar year 2012.

On March 17, 2005, the FCC strengthened its reporting requirements for ETCs to ensure that high-cost universal service support continues to be used for its intended purposes. In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC 05-46 (Rel. March 17, 2005). The FCC encouraged state commissions to adopt the same annual reporting requirements for all ETCs, not just competitive ETCs. *Id.* at ¶71. The FCC also recognized that state commissions possess the authority to rescind ETC designations for failure of an ETC to comply with the requirements

¹This section states that federal USF received by ETCs must be used “only for the provision, maintenance and upgrading of facilities and services for which the support is intended.”

of section 214(e) of the Act or any conditions imposed by the state. *Id.* at ¶72. On May 17, 2005, this Commission adopted the FCC's annual reporting requirements in addition to the existing requirements, including that all ETCs file verified statements certifying that they use universal service support only for the provision, maintenance and upgrading of facilities and services for which the support is intended.

Pursuant to 47 C.F.R. §54.316, each state must annually compare the residential rates in areas served by non-rural incumbent local exchange carriers to urban rates nationwide and certify to the FCC and Universal Service Administrative Company (USAC) that the rates are reasonably comparable. Frontier West Virginia Inc. (Frontier WV) is the only non-rural incumbent local exchange carrier in West Virginia.

On June 13, 2011, the Commission initiated its annual GI into the eligibility of ETCs for continued USF for the upcoming calendar year. The Commission directed that its Executive Secretary (i) post the verified statements of each carrier on the Commission website, (ii) publish notice of its Order and the internet posting of verified carrier statements once in the Charleston Gazette and Charleston Daily Mail and (iii) inform the public that interested persons could file comments with the Commission by July 16, 2011. *Id.*

The following ETCs filed their respective documentation and requests that the Commission certify to the FCC and USAC their eligibility to continue to receive federal high-cost, Lifeline and/or LinkUp support in calendar year 2012:

1. Alltel Communications, LLC, dba Verizon Wireless
2. Armstrong Telephone Company - Northern Division
3. Armstrong Telephone Company - West Virginia
4. Citizens Telecommunications of West Virginia, Inc.
5. FiberNet, LLC
6. Frontier West Virginia Inc.
7. Gateway Telecom, LLC, dba StratusWave Communications, LLC
8. Hardy Telecommunications, Inc. CLEC
9. Hardy Telecommunications, Inc. ILEC
10. New Cingular Wireless PCS, LLC dba AT&T Mobility
11. Nexus Communications, Inc.²
12. Sprint Nextel Corporation
13. Spruce Knob-Seneca Rocks Telephone, Inc.
14. Telrite Corporation³
15. Tracfone Wireless, Inc.
16. USCOC of Cumberland and Hardy Cellular Telephone, Inc.
17. Virgin Mobile USA, L.P.

²Nexus Communications, Inc. (Nexus) submitted a late certification filing.

³Telrite filed a late USF request in response to a directive from the Commission.

18. War Acquisition Corp., dba OTT Communications
19. West Side Telecommunications
20. West Virginia PCS Alliance, LC dba NTELOS

On July 5, 2011, Commission Staff filed an initial memorandum informing the Commission that it will investigate this matter.

On July 19, 2011, Nexus filed a late request for USF certification for its Lifeline and LinkUp program. Nexus submitted its entire filing under seal and moved for protective treatment.

On July 20, 2011, Staff served interrogatories seeking additional information on four ETCs. Separately, Staff recommended that the Commission deny the protective treatment request Nexus filed for its July 19, 2011 filing.

On August 5, 2011, Virgin Mobile USA, L.P. (Virgin Mobile) responded to the Staff interrogatories propounded to it. It also requested that the Commission seal a portion of its response.

On August 8, 2011, Telrite Corporation (Telrite) responded to interrogatories from Staff.

On August 12, 2011, Tracfone Wireless, Inc. (Tracfone) responded to interrogatories from Staff. Tracfone filed a 2010 Lifeline verification form and requested protective treatment for a portion of its discovery response.

On August 16, 2011, Staff filed a memorandum recommending that the Commission certify all USF filers as eligible to continue to receive USF support in 2012 because they are adequately in compliance with the applicable ETC/USF requirements in the current reporting period. It noted that Telrite had not submitted the information the Commission ordered filed by July 1, 2011, and requested that the Commission direct Telrite to comply. Staff requested that each carrier file a Lifeline verification for the current year.⁴ Finally, Staff recommended that the Commission certify four additional carriers that the Commission designated as ETCs in 2011 including:

1. TerraCom, Inc.
2. Linkup Telecom
3. Midwestern Telecommunications, Inc., dba MTI
4. i-wireless, LLC

⁴Various carriers responded to the Staff request with updated Lifeline verification forms.

On August 17, 2011, Nexus responded to the Staff interrogatories directed to it. Nexus also requested protective treatment for its Lifeline customer count and data within its Lifeline verification form.

On August 18, 2011, Staff corrected a portion of its August 16, 2011 Memorandum.

The Commission directed Telrite to comply with the June 13, 2011 Commission Order within ten days. August 18, 2011 Commission Order.

On August 29, 2011, Telrite filed information responding to the August 18, 2011 Commission Order.

On September 7, 2011, Staff filed a supplemental memorandum stating that the ETCs have remedied the deficiencies it identified in its August 16, 2011 Memorandum. Staff also recommended that the Commission certify two additional ETCs for calendar year 2012 including:

1. Conexion, LLC, dba Conexion Wireless
2. Gulf Coast Home Phone Services dba Gulf Coast Wireless

DISCUSSION

Use of High-Cost Support Certification - All Carriers

With regard to the use of USF, the Commission accepts the Staff recommendation and concludes that the following telecommunications carriers should be certified to receive federal universal service support during calendar year 2012, because they use federal universal service support only for the provision, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Act:

1. Alltel Communications, LLC, dba Verizon Wireless
2. Armstrong Telephone Company - Northern Division
3. Armstrong Telephone Company - West Virginia
4. Citizens Telecommunications of West Virginia, Inc.
5. Conexion, LLC dba Conexion Wireless
6. FiberNet, LLC
7. Frontier West Virginia Inc.
8. Gateway Telecom, LLC, dba StratusWave Communications, LLC
9. Gulf Coast Home Phone Services dba Gulf Coast Wireless
10. Hardy Telecommunications, Inc. CLEC
11. Hardy Telecommunications, Inc. ILEC
12. i-wireless, LLC
13. Linkup Telecom

14. Midwestern Telecommunications, Inc., dba MTI
15. New Cingular Wireless PCS, LLC dba AT&T Mobility
16. Nexus Communications, Inc.
17. Sprint Nextel Corporation
18. Spruce Knob-Seneca Rocks Telephone, Inc.
19. Telrite Corporation
20. TerraCom, Inc.
21. Tracfone Wireless, Inc.
22. USCOC of Cumberland and Hardy Cellular Telephone, Inc.
23. Virgin Mobile USA, L.P.
24. War Acquisition Corp., dba OTT Communications
25. West Side Telecommunications
26. West Virginia PCS Alliance, LC dba NTELOS

Therefore, the Commission should certify by letter to the FCC and the USAC that the above-listed ETCs are properly using USF consistent with Section 254(e) of the Act. Finally, the Commission notes that the requests of Connexion Wireless, Gulf Coast Wireless, i-wireless, LLC, Linkup Telecom, Midwestern Telecommunications, Inc., dba MTI, Nexus, Telrite, TerraCom, Inc., Tracfone and Virgin Mobile are limited to support for their Lifeline and/or LinkUp programs.

Rate Comparability Certification - Non-Rural ILEC Service Areas

The Commission concludes that the rates charged by the incumbent non-rural carrier, Frontier WV, to residential customers in rural areas of West Virginia are comparable to rates charged in urban areas for purposes of 47 U.S.C. §254(e). Three of the four residential calling plans available to all Frontier WV customers in West Virginia, including those in rural areas, have basic rates that fall below the national urban benchmark of \$36.52 per month set forth in the FCC Reference Book on Rates, Price Indices and Expenditures for Telephone Service, (2008 Edition). See, General Investigation Regarding Certification of Federal USF for ETCs in West Virginia, Case No. 10-0558-T-GI, June 24, 2010 filing of the former Verizon West Virginia Inc., at Attachment E and Frontier West Virginia Inc., Case No. 10-0991-T-T (Commission Order, August 17, 2010) (Frontier WV adopting former Verizon West Virginia Inc., tariff). The fourth calling plan, Frequent Caller, has basic rates that are only seventeen cents above the benchmark (excluding federal excise taxes). The Commission finds the small amount by which the Frequent Caller plan exceeds the urban benchmark is de minimis. The Commission finding is also supported by the following facts:

1. Since 1988 the rates charged to residential customers in West Virginia have been uniform geographically throughout the state.
2. "Local calling areas" are uniformly defined throughout West Virginia and consist of all adjacent wire centers and wire centers within twenty-two air miles of the customer's home wire center. This means that every residential

customer in every Frontier WV wire center in West Virginia, rural or urban, has a large local calling area, usually in excess of fifty miles in diameter. These large local calling areas benefit residential customers by reducing the need to make long distance calls for normal daily activities.

3. Every residential customer in every Frontier WV wire center has the choice of the same four calling plans. Since the rate plans are optional, no customer is forced to purchase service under any particular plan.
4. The Frequent Caller Plan is an optional calling plan that provides flat-rate local calling across a very large area. Customers do not have to choose that plan, because there are other alternative calling plans available from Frontier WV and competitive carriers. Moreover, that plan gives customers flat-rate local calling for calls that are normally billed as long distance calls in other, more urban states.

Additional Rate Comparability Certification - Competitive ETCs

The Commission also reviewed the comparability of the residential rates of competitive ETCs charged in rural areas of West Virginia served by Frontier WV and determined that they are reasonably comparable to rates charged in urban areas. Most of these carriers offer at least one residential plan to customers in rural wire centers served by Frontier WV that fall below the national urban benchmark. See, ETC Statements generally. To the extent that some of these competitive ETCs offer basic calling plans with rates that are above the national urban benchmark, the Commission finds that plans are nevertheless comparable to urban rates nationwide because (i) these plans include calling features that are not federally supported such as long distance calling and vertical services, (ii) of the existence of uniform residential rates, (iii) of uniformly defined "local calling areas" in West Virginia and (iv) of the existence of competitive carriers offering alternative calling plans. Further, many competitive carriers make no distinction between local and nationwide calling rates in their service packages.

Therefore, the Commission concludes that it should certify by letter to the FCC and USAC that residential rates in areas served by Frontier WV are comparable to urban rates nationwide.

Annual Lifeline Verification Certifications

On July 10, 2007, the FCC issued Public Notice DA 07-3088, "Deadline for Annual Lifeline Verification Surveys," requiring ETCs in a state with its own state-based low-income program to submit a certification, signed by an officer of the company to USAC by August 31 of each year, attesting that the ETC has complied with the state verification procedures. Pursuant to the FCC notice, each state with a state-based low-income program

is required to establish state-specific verification procedures. The state procedures should include how ETCs verify continued eligibility and to whom the results should be submitted.

W.Va. Code §24-2C-4 sets forth this State's procedures for its state-based low-income program called "Tel-Assistance." The West Virginia Department of Health and Human Resources (DHHR) verifies initial and continuing eligibility of Tel-Assistance recipients. ETCs communicate with DHHR and verify continuing eligibility. The Commission is responsible for establishing the procedures governing the application for and providing of Tel-Assistance.

As directed in the June 13, 2011 Commission Order, all ETCs have filed a copy of the current annual Lifeline verification certification.

Requests for Protective Treatment

Most ETCs did not request any type of protective order for their filings in this matter. Seven of the filers, however, requested protective treatment for portions of their filing or discovery responses, arguing that the sealed information constituted trade secrets exempted from disclosure under the West Virginia Freedom of Information Act, codified as W.Va. Code §29B-1-1 et seq. (WV FOIA). The sealed filings in this matter include:

Sprint Nextel

- Attachment 4 – Build-out Plan Update
- Attachment 5 – Map of Improvements
- Attachment 6 – 2010 Outage Report

US Cellular

- Portion of Part 3 – List of Expenditures on Capital Improvements

AT&T Wireless

- Attachments 2-1, 2-2 and 2-3 - Service Improvement Plan (SIP)

Alltel dba Verizon Wireless

- Attachment A-1 – Progress Report on SIP
- Attachment A-2 – Updated 5 year SIP
- Attachment B – 2010 Outages

Virgin Mobile

- Attachment 3 – Outage Information
- Discovery response regarding number of Lifeline customers.

Tracfone

- Discovery response disclosing number of Lifeline customers.

Nexus Communications

- Complete initial filing.
- Discovery response disclosing Lifeline customer count and data from Lifeline verification form.

The requests for protective treatment essentially fall into three categories. The first category includes attachments containing forward looking data such as plans for future construction or budgeting that may be of commercial value and allows the carrier a business advantage over its competitors. Attachments in this category include Sprint Nextel Corporation (Sprint) Attachments 4 and 5, the confidential version of Part 3 of the USCOC of Cumberland and Hardy Cellular Telephone, Inc. (US Cellular) filing, New Cingular Wireless PCS dba AT&T Mobility (AT&T) Attachments 2-1, 2-2 and 2-3 and Alltel Communications, LLC dba Verizon Wireless (Verizon Wireless) Attachments A-1 and A-2. As it is possible to issue this Order and the corresponding certification letter without including any of this information, the Commission concludes that there is no need to rule on the requests for protected treatment for these items at this time. Thus, the Commission shall direct its Executive Secretary to maintain that information separate and apart from the rest of the file. If there is a request filed with the Commission in the future to make that information public, the Commission will require the entity seeking protective treatment to argue its request at that time.

The second category of information includes items that contain historical information predominantly derived from interactions between the carriers and their customers or aggregated statistical data. Attachments in this category include outage information contained in Sprint Attachment 6, Verizon Wireless Attachment B and Virgin Mobile Attachment 3 as well as the customer counts contained in discovery responses filed by Virgin Mobile, Tracfone and Nexus. The Commission concludes that this data is unlikely to be of commercial value to either the carrier or its competitors. Further, the data underlying the compilations of service outages is obviously known outside the carrier. Thus, the Commission concludes that these items are not trade secrets under W.Va. Code §29B-1-4 and cannot be held back from public view.

In the third category, Nexus filed its entire USF certification request under seal. The Commission has reviewed the Nexus filing and is unable to find any portion of the document that constitutes a trade secret under WV FOIA. Nexus did not provide any business plans or other information exempted from WV FOIA in its filing. Therefore, the Commission denies its request to seal its July 19, 2011 filing.

The Commission notes that it has previously directed carriers to examine their filings closely in order to narrow requests for protective treatment as much as possible. The Legislature has established a public policy of providing full and complete public access to government information whenever possible. Frontier Communications Corp., et al., Case No. 09-0871-T-PC (Commission Order, December 30, 2009). This narrowing is particularly relevant in cases where the Commission is considering the eligibility of private entities to

receive public funding. Nexus clearly failed to conduct any type of serious examination of its protective treatment request for its USF filing in this matter and is directed to do so in the future.

Finally, the Commission observes that Sprint did not file an affidavit in support of its protective treatment request. Thus, the Commission will direct Sprint to file a supporting affidavit within fifteen days of the entry of this Order. Hope Gas Inc., dba Dominion Hope, Case No. 08-1783-G-42T (Commission Order, November 20, 2009) at 42. In the event that Sprint does not file a supporting affidavit, the Executive Secretary shall release its entire sealed filing into the public file.

Missing Verification

War Acquisition Corp., dba OTT Communications (War) did not file an affidavit affirming the veracity of its certification request. Thus, the Commission will direct War to file that affidavit as a closed entry under this case number within fifteen days of the entry of this Order.

Requirements for 2012 Certification Filings

In prior USF proceedings, the Commission directed all ETCs to file certain information with the Commission the following year to assure that the Commission would have the necessary information available for its next certification proceeding. The Commission will require similar filings be made on or before July 1, 2012. All filers should continue to include (i) their Study Area Code(s), (ii) whether the filer is a rural carrier and/or a non-rural carrier and (iii) whether the filer is an incumbent or a competitive carrier.

The Commission takes this opportunity to note that two carriers, Nexus and Telrite, failed to submit their filings on or before the July 1, 2011 filing deadline. Nexus also failed to file timely in the 2010 proceeding. The Commission does not condone any ETC submitting a late filing and may refuse late or substantially incomplete filings in the future.

FINDINGS OF FACT

1. The Commission initiated this GI to review the use of federal USF by ETCs in West Virginia. June 13, 2011 Commission Order.
2. Twenty ETCs filed required USF documentation and requested that the Commission certify their eligibility to continue to receive federal high-cost, Lifeline and/or LinkUp support in calendar year 2012. ETC USF filings.
3. All ETCs except War verified their filings. Id.

4. Requests for a protective order for Sprint Attachment 6, Verizon Wireless Attachment B and the full protective treatment requests from Virgin Mobile, Tracfone and Nexus contain historical information derived from interactions between the carriers and their customers or other information not exempted from WV FOIA. Id.

5. Staff recommended that the Commission certify to the FCC that all twenty-six ETCs in this proceeding are adequately in compliance with all applicable ETC/USF requirements, including six ETCs that this Commission designated in 2011. August 16, 2011 and September 7, 2011 Staff Memoranda.

CONCLUSIONS OF LAW

1. The Commission concludes that the following telecommunications carriers should be certified by letter to the FCC to receive federal universal service support during calendar year 2012, because they use federal universal service support only for the provision, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Act:

1. Alltel Communications, LLC, dba Verizon Wireless
2. Armstrong Telephone Company - Northern Division
3. Armstrong Telephone Company - West Virginia
4. Citizens Telecommunications of West Virginia, Inc.
5. Conexion, LLC, dba Conexion Wireless
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7. Frontier West Virginia Inc.
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11. Hardy Telecommunications, Inc. ILEC
12. i-wireless, LLC
13. Linkup Telecom
14. Midwestern Telecommunications, Inc., dba MTI
15. New Cingular Wireless PCS, LLC dba AT&T Mobility
16. Nexus Communications, Inc.
17. Sprint Nextel Corporation
18. Spruce Knob-Seneca Rocks Telephone, Inc.
19. Telrite Corporation
20. TerraCom, Inc.
21. Tracfone Wireless, Inc.
22. USCOC of Cumberland and Hardy Cellular Telephone, Inc.
23. Virgin Mobile USA, L.P.
24. War Acquisition Corp., dba OTT Communications
25. West Side Telecommunications
26. West Virginia PCS Alliance, LC dba NTELOS

2. The Commission concludes that the rates charged by the incumbent non-rural carrier, Frontier WV, to residential customers in rural areas of West Virginia are comparable to rates charged in urban areas nationwide for purposes of 47 U.S.C. §254(e).

3. The Commission concludes that the rates of competitive ETCs charged in rural areas of West Virginia served by Frontier WV are reasonably comparable to rates charged in urban areas nationwide.

4. It is reasonable to require War to file an affidavit attesting to the accuracy of its filings in this proceeding.

5. To facilitate certification filings for next year, it is reasonable for the Commission to mandate specific filing requirements within this Order.

6. Sprint Attachment 6, Verizon Wireless Attachment B and the full protective treatment requests from Virgin Mobile, Tracfone and Nexus are not trade secrets under W.Va. Code §29B-1-1 et seq.

7. It is reasonable to direct Sprint to support its protective treatment request with an affidavit. Case No. 08-1783-G-42T (Commission Order, November 20, 2009) at 42.

ORDER

IT IS THEREFORE ORDERED that a certification be issued to the FCC and USAC stating that the following carriers are using federal universal service support only for the provision, maintenance and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Act:

1. Alltel Communications, LLC, dba Verizon Wireless
2. Armstrong Telephone Company - Northern Division
3. Armstrong Telephone Company - West Virginia
4. Citizens Telecommunications of West Virginia, Inc.
5. Conexion, LLC, dba Conexion Wireless
6. FiberNet, LLC
7. Frontier West Virginia Inc.
8. Gateway Telecom, LLC, dba StratusWave Communications, LLC
9. Gulf Coast Home Phone Services dba Gulf Coast Wireless
10. Hardy Telecommunications, Inc. CLEC
11. Hardy Telecommunications, Inc. ILEC
12. i-wireless, LLC
13. Linkup Telecom
14. Midwestern Telecommunications, Inc., dba MTI
15. New Cingular Wireless PCS, LLC dba AT&T Mobility
16. Nexus Communications, Inc.

17. Sprint Nextel Corporation
18. Spruce Knob-Seneca Rocks Telephone, Inc.
19. Telrite Corporation
20. TerraCom, Inc.
21. Tracfone Wireless, Inc.
22. USCOC of Cumberland and Hardy Cellular Telephone, Inc.
23. Virgin Mobile USA, L.P.
24. War Acquisition Corp., dba OTT Communications
25. West Side Telecommunications
26. West Virginia PCS Alliance, LC dba NTELOS

IT IS FURTHER ORDERED that it is appropriate to certify to the FCC and USAC that the above-stated carriers are eligible to continue receiving federal universal service support for calendar year 2012, based on the verified statements submitted to the Commission.

IT IS FURTHER ORDERED that it is appropriate to certify to the FCC and USAC that the residential rates charged by Frontier WV and competitive ETCs in rural areas of West Virginia served by Frontier WV are reasonably comparable to urban rates nationwide.

IT IS FURTHER ORDERED that War shall file an affidavit attesting to the accuracy of its filings in this matter within fifteen days of the entry of this Order.

IT IS FURTHER ORDERED that by July 1, 2012, regardless of whether the Commission has yet instituted the 2013 annual certification proceeding, all non-rural incumbent carriers and all ETCs providing service in rural areas served by a non-rural incumbent carriers shall file, for the purposes of making the rate comparability determination, the following information:

- (1) Monthly line charge
- (2) Average monthly usage
- (3) Any federal subscriber line charge
- (4) Any federal universal service credit
- (5) Any federal universal service surcharge
- (6) Any local number portability surcharge
- (7) Any telecommunications relay service surcharge
- (8) Any E-911 surcharge
- (9) Federal excise tax
- (10) Any other mandatory surcharges that apply to their listed basic calling plan.

IT IS FURTHER ORDERED that on or before July 1, 2012, regardless of whether the Commission has yet instituted the 2013 annual certification proceeding, all ETCs designated by this Commission shall, in addition to the information detailed above for the then most recent calendar year, also file:

- (1) progress reports on the five-year service quality improvement plan of the ETC, including maps detailing progress towards meeting its plan targets; an explanation of how much universal service support was received during the most recent calendar year including support for Lifeline and LinkUp programs, and how the support was used during that period to improve signal quality, coverage, or capacity; and an explanation regarding any network improvement targets that have not been fulfilled. The information should be submitted at the wire center level;
- (2) for the most recent calendar year, detailed information on any outage lasting at least thirty minutes, for any service area in which an ETC is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affects at least ten percent of the end users served in a designated service area, or that potentially affects a 911 special facility. Specifically, the ETC's annual report must include: (i) the date and time of onset of the outage; (ii) a brief description of the outage and its resolution; (iii) the particular services affected; (iv) the geographic areas and wire centers affected by the outage; (v) steps taken to prevent a similar situation in the future; and (vi) the number of customers affected;
- (3) the total number of requests for service from potential customers within its service areas that were unfulfilled for the most recent calendar year. The ETC must also detail how it attempted to provide service to those potential customers;
- (4) the total number of complaints and the number of complaints per thousand handsets or lines during the most recent calendar year;
- (5) certification that the ETC is complying with applicable service quality standards and consumer protection rules, *e.g.*, the Commission quality of service standards, and the CTIA Consumer Code for Wireless Service;
- (6) certification that the ETC is able to function in emergency situations along with a description of the emergency facilities of the ETC;
- (7) certification that the ETC is offering a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas;

- (8) certification that the carrier acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area; and
- (9) their Study Area Code(s), whether the filer is a rural carrier and/or a non-rural carrier, and whether the filer is an incumbent or a competitive carrier.

IT IS FURTHER ORDERED that on or before July 1, 2012, all ETCs designated by this Commission shall file a copy of the annual Lifeline verification compliance certification referenced in FCC Public Notice DA 07-3088 or any successor thereto.

IT IS FURTHER ORDERED that the Executive Secretary shall docket in this proceeding a copy of the Commission letter to the FCC issued pursuant to this Order.

IT IS FURTHER ORDERED that the Executive Secretary shall maintain the confidential versions of ETC filings in this matter containing Sprint Attachments 4 and 5, the confidential version of Part 3 of the US Cellular filing, AT&T Attachments 2-1, 2-2 and 2-3 and Verizon Wireless Attachments A-1 and A-2 separate and apart from the rest of the file.

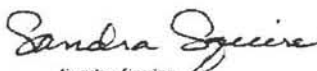
IT IS FURTHER ORDERED that the requests for a protective order for Sprint Attachment 6, Verizon Wireless Attachment B and the full protective treatment requests from Virgin Mobile, Tracfone and Nexus are denied.

IT IS FURTHER ORDERED that Sprint shall file an affidavit in support of its protective treatment requests within fifteen days of the entry of this Order.

IT IS FURTHER ORDERED that, on entry hereof, this proceeding shall be removed from the Commission docket of active cases.

IT IS FURTHER ORDERED that the Commission Executive Secretary serve a copy of this Order by electronic service on all ETCs and parties requesting that service, on all other parties by United States First Class Mail and on Staff by hand delivery.

A True Copy, Teste:


Sandra Squire
Executive Secretary

MJM/lld
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